



27 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of  
PHILLIPE CINQUIN et al.  
Application No.: 10/031,053  
PCT No.: PCT/FR00/02042  
Int. Filing Date: 13 July 2000  
Priority Date: 15 July 1999  
Attorney's Docket No.: Cinquin-3  
For: REMOTELY CONTROLLABLE SYSTEM FOR  
POSITIONING ON A PATENT AN OBSERVATION/  
INTERVENTION DEVICE

DECISION ON PETITION

UNDER 37 CFR 1.181

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" under 37 CFR 1.181 filed in the United States Patent and Trademark Office (USPTO) on 18 December 2002 alleging that applicant did not receive the Notification of Missing Requirements mailed on 27 March 2002.

### **BACKGROUND**

A review of the application file reveals that the NOTIFICATION OF MISSING REQUIREMENTS was mailed by the USPTO on 27 March 2002. The notification indicated that an oath or declaration and surcharge had not been received. Applicant was given two months to respond to the Notification or until 27 May 2002, with extensions of time (up to 5 months) available under 37 CFR 1.135(a). No response to the Notification of Missing Requirements was received, and thus, the application was held to be **ABANDONED** as of midnight on 28 October 2002 (27 October 2002 was a Sunday).

On 15 November 2002, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant.

### **DISCUSSION**

In order to establish that papers were not received, a petition under 37 CFR 1.181 with a proper showing is required. As set forth in the Official Gazette at 1156 OG 53, the petition must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). No petition fee is required.

Counsel for applicant states that he did not receive the Notification of Missing Requirements mailed on 27 March 2002 and that a search of the file jacket and docket records indicates that the Office action was not received. Counsel also submitted a "copy of the docket record where the nonreceived notification would have been entered had it been received and docketed".

Attorney for applicant proffers that the mailing address used by the USPTO on the Notification of Missing Requirements and Notification of Abandonment (100 College Road) was incomplete and in error and that this is the cause of his nonreceipt of the Notification of Missing Requirements. Counsel states that the correct address (100 College Road West) is the address listed on the transmittal letter for entry in the U.S. national stage filed on 15 January 2002. Counsel indicates that College Road and College Road West are two different streets and that previous mailings in other applications have not always been delivered when the address was incomplete.

A review of the application file and the USPTO records indicates that counsel listed the College Road West address on the transmittal letter for this application. However, the USPTO PALM record lists only "College Road" as the correspondence address.

The Notification of Missing Requirements mailed on 27 March 2002 and Notification of Abandonment mailed on 15 November 2002 will be vacated.

The College Road West address will be corrected in the USPTO records.

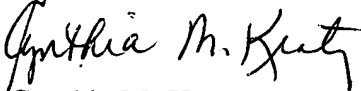
### CONCLUSION

For the reasons presented above, the Petition to withdraw the holding of abandonment under 37 CFR 1.181 is **GRANTED**.

The 27 March 2002 Notification of Missing Requirements and the 15 November 2002 Notification of Abandonment (Form PCT/DO/EO/909) are hereby **VACATED**.

Applicants' correspondence address will be corrected to "College Road West" in the USPTO records.

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a new Notification of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration after the thirty month period is required.



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